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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,873	04/16/2001	Mark Vange	CIRC018	5575
25235	7590	10/19/2005	EXAMINER	
HOGAN & HARTSON LLP ONE TABOR CENTER, SUITE 1500 1200 SEVENTEENTH ST DENVER, CO 80202			ALAUBAIDI, HAYTHIM J	
			ART UNIT	PAPER NUMBER
			2168	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/835,873	VANGE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Haythim J. Alaubaidi	2168	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 01 August 2005.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-5,7-9,11-16 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5,7-9,11-16 and 21-23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 April 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

### **DETAILED ACTION**

1. This communication is a Final Office Action in response to the amendments filed on August 01, 2005.
2. Claims 1-5, 7-9, 11-16 and 21-23, are presented for examination following the amendment of August 01, 2005.
3. The Examiner acknowledges the cancellation of Claims 6, 10 and 17-20.
4. Claims 1-5, 7-9, 11-16 and 21-23, are rejected under 35 U.S.C. 103(a).

#### ***Priority***

5. This application is a continuation of provisional Application No. 60/197,490 and therefore, accorded the benefit of the earlier filing date of 17 April, 2000.

#### ***Response to Arguments***

6. Applicant's arguments filed with the amendment of August 01, 2005 have been fully considered but they are not persuasive.
  - a. Applicant argues that neither Leighton nor Tso teaches "an enhanced communication channel between the first and second computers". The Examiner however respectfully disagrees.
    - i. Leighton teaches an enhanced communication channel between the first and second computers, please see (Figure No. 3 and corresponding text; see also Col 5, Lines 50-58), i.e.

"the hosting system 35 comprises a set of widely-deployed servers (or server resources) that form a large,

fault-tolerant infrastructure designed to serve Web content efficiently, effectively, and reliably to end users. The servers may be deployed globally, or across any desired geographic regions. As will be seen, the hosting system provides a distributed architecture for intelligently routing and replicating such content".

ii. Tso also teaches the above limitation of the enhanced communication channel between the first and second computers, please see (Figure No. 1, Elements 17 and 19, i.e. the communication between the servers)<sup>1</sup>.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5, 7-9, 11-16 and 21-23, are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomson Leighton (U.S. Patent No. 6,553,413 and Leighton hereinafter) in view of Michael Tso (U.S. Patent No. 6,047,327 and Tso hereinafter).

Regarding Claims 1-2, 4, 8-9, 15-16 and 23, Leighton discloses:  
a communication network (Figure No 1, Element No. 14 and corresponding text)

a plurality of client applications coupled to the network (Figure No 1, Element No's. 10 and 16 and corresponding text; see also Col 3, Lines 56-58, i.e. and copies are located in regions close to the clients that are requesting them)

a set comprising one or more intermediary server coupled to the network (Figure No. 3, Element No's 36, 38 and 40; see also ISP; see also Col 5, Lines 50-56)

an enhanced communication channel between the first and second computers, please see (Figure No. 3 and corresponding text; see also Col 5, Lines 50-58), i.e.

"the hosting system 35 comprises a set of widely-deployed servers (or server resources) that form a large, fault-tolerant infrastructure designed to serve Web content efficiently, effectively, and reliably to end users. The servers may be deployed globally, or across any desired geographic regions. As will be seen, the hosting system provides a distributed architecture for intelligently routing and replicating such content".

a data storage mechanism coupled to the network at a topological position with respect to the client applications that is unique from the topological position of intermediary server (Figure No. 1, Element No. 12; see also Figure No 3, Element No. 45 and corresponding text; see also Col 6, Lines 12-21, i.e. The servers are preferably located at the edges of the network; see also Col 6, Lines 35-38; see also Col 2, Lines 51-56; see also Col 10, Lines 23-29) and having an interface for communicating with the intermediary server (Figure No 5, Element No. 1 and corresponding text; see also Col 5, Lines 22-30)

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<sup>1</sup> Please note that using Tso's reference, the Examiner is interpreting the enhanced communication channel to be any channel that connects the two computers. Though the Specification of the current application describe the enhanced features, yet the claims contain no such description.

means within the at least one intermediary server to access the data storage mechanism and establishing a channel (Col 4, Line 65 through Col 5, Line 10; see also Col 13, Lines 42-45)

using the intermediary server to format database content obtained from the data storage mechanism to a format usable by the client application (Col 1, Lines 21-40)

Leighton discloses all of the claimed subject matter set forth above, except it does not explicitly indicate the step of the first computer located logically close to the client application and a second computer located logically close to the data storage.

However, Tso discloses the first computer located topologically close to the client application and a second computer located topologically close to the data storage (Figures No. 1 and 3 and corresponding text). Given the intended broad application of the Leighton system, It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Leighton with the teachings of Tso to indicate the first computer located topologically close to the client application and a second computer located topologically close to the data storage as in any distributed network a plurality of clients and servers are connected such as in the Internet, one good reason would be to increase the amount of users that would lead to an increase in revenues.

Regarding Claim 3, Leighton wherein at lease on of the client applications comprises a web browser application (Figure 1, Element 16) and an HTTP request (Col 4, Lines 8-30).

Regarding Claim 5, the limitations of this claim is similar in scope to the rejected claim 1, above. In edition, Leighton discloses an intermediary server is topologically distant from the data storage mechanism (Col 5, Lines 55-56).

Regarding Claims 7 and 11-14, Leighton discloses the support for prioritizing the requests (Col 11, Lines 55-57, i.e. The serial numbers are then processed in increasing order of load; see also “priority list” at line 61 of the same Col).

Regarding Claims 21-22, the limitations of these claims are similar in scope to the rejected claim 1, above. In edition, Leighton discloses:

causing the intermediary server to determine availability (Col 3, Line 67 through Col 4, Line 2, i.e. In particular, the top level DNS server returns a list of low-level DNS servers that may be used by the client to service the request for the embedded object)

using the intermediary server to obtain substitute database content in the busy or unavailable event (Col 4, Lines 3-6).

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Points of Contact***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haythim J. Alaubaidi whose telephone number is (571) 272-4014. The examiner can normally be reached on Monday - Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (571) 272-4023.

Any response to this office action should be mailed to:

The Commissioner of Patents and Trademarks, Washington, D.C. 20231 or Faxed at our central fax number (571) 273-8300.

Hand-delivered responses should be brought to the Customer Service Window of the  
Randolph Building at 401 Dulany Street, Alexandria, VA 22314



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